III. Remarks

A. Objection to Claims

The Action objects to claims 17, 19, and 22-24 for lack of antecedent basis for "said vertical wall." Independent claim 17 has been amended to correct this informality. No other amendments are submitted herewith.

B. Rejection under 35 U.S.C. § 102

The Action rejects claims 1, 5, 17 and 19 as being anticipated by U.S. Patent No. 5,502,940 to Fifield. Reconsideration and withdrawal of this rejection are respectfully requested.

In rejecting claim 1, the Office argues that Fifield teaches the claimed protruding first area because Fifield discloses, at Column 2, Lines 6-10, that "the surfaces of the first and second layers . . . may be planar or may be contoured." Applicant submits that the Office has not considered the full context of this description. Claim 1 recites that the panel has "a thickened portion proximate a top end of said panel forming a protruding first area in said rear face . . ." The portion of Fifield identified by the Office discloses that the abutting surfaces of the concrete layer 40 and polystyrene base layer 2 may be planar or contoured so "as to assist in manufacturing the layers in abutment without the need for adhesives or other means of securing the layers together." (Col. 2, Lines 7-11). Fifield is clearly discussing the interface between the concrete and polystyrene layers and not a feature that is located at the "rear face" of the siding panel as claimed. See, e.g., claim 1 (wherein "said abutting surfaces of said first and second layers included complementary interlocking engaging means comprising one or more male and female members") and FIG. 7 (wherein the interlocking at the interface is apparent). For at least this reason, it is submitted that Fifield does not disclose each feature of independent claim 1. Therefore, it is submitted that claim 1 and dependent claim 5 are not anticipated by the cited reference.

Further, with respect to dependent claim 5, the Office also cites to the description of Fifield, Col. 2, Lines 6-10 for the planar second face feature recited therein. Again, Fifield is clearly discussing an internal interface between the concrete and polystyrene layers and not a feature at the rear surface of the panel as claimed in claim 5 via its dependency on claim 1.

Claim 17 recites that the first area that includes the continuous planar first face that extends between the side faces is part of the "rear face": "said rear face of at least said first siding panel having a first area proximate to a top end . . ." As discussed above, the description of Fifield relied upon by the Office discusses a portion of the panel of Fifield that is not at the rear face of the panel but rather is at an interface between the concrete and polystyrene layers of the composite panel. For at least these reasons, it is submitted that Fifield does not teach each feature of claim 17 and that claims 17 and 19, which depends from claim 17, are not anticipated by the cited reference.

Reconsideration and withdrawal of the rejection of claim 17 are respectfully requested in view of the foregoing arguments.

C. Rejection under 35 U.S.C. § 103

The Action rejects claims 1-3, 5-9, 11-13, 15-17, 19, and 22-30 as being obvious from the admitted prior art (APA) in further view of U.S. Patent No. 5,465,547 to Jackel. Claims 4 and 10 are rejected as being obvious from the APA in view of Jackel in further view of U.S. Published Application No. 2004/0083673 to Kalkangulu et al. Reconsideration and withdrawal of these rejections are respectfully requested in view of the foregoing amendments and the following arguments.

1. Claims 1-8

In rejecting independent claim 1 as being obvious, the Office relies on the APA as the primary reference and characterizes the APA, specifically FIG. 3, as showing "continuous planar first and second faces extending between the side faces." The office concludes that the APA

fails only to teach the thickened portion recited in the claim. The Applicant submits that the Office has mischaracterized the disclosure of APA and/or misunderstood the first and second faces feature recited in claim 1.

As discussed above, Claim 1 recites that the "rear face has a continuous planar first face . . ." and that the "rear face . . . ha[s] a planar second face." FIG. 3 of the APA shows a panel having a rear face facing wall 12 consisting of one face, not two faces as alleged by the Office. This single face produces gap 22 formed between wall 12 and panel 16b when panel 16b is installed to overlap second panel 16a and the problems associated therewith as described in ¶4 of the present application, i.e., panel stressing, cracking, water infiltration, etc.

It is submitted, therefore, that the combination of the APA with Jackel cannot provide the claimed invention. Such a combination will provide either a panel with the APA's single rear face or a panel with Jackel's rear face. As argued in the previous response, and as apparently recognized by the Office's issuance of this new rejection of claim 1, Jackel fails to teach the planar first and second faces as claimed.

Therefore, it is submitted that claim 1 is not obvious from the cited combination and is allowable thereover.

Claims 2-8 depend from claim 1 and are, therefore, allowable for at least the reasons set forth above in connection with claim 1.

2. Claims 9-24, 15-16

Independent Claim 9 is directed to a siding panel assembly. The assembly includes at least first and second siding panels attached to a vertical wall of a structure. Claim 9 recites that the "rear face of at least said first siding panel ha[s] a reinforced area proximate to a top end of said rear face shaped such that at least a portion of said area sits substantially flush with a portion of said vertical wall" and that "the reinforced area includes a continuous planar first face that

contacts said portion of said vertical wall and extends between said side faces." It is submitted that the combination of APA and Jackel does not teach a panel having such a rear face.

As discussed above, the APA shows a panel having a rear face that consists of one flat face. This face includes no reinforced area or area that is shaped in any way to sit substantially flush with the vertical wall. The Office relies on Jackel's tile 50, specifically rearward edge portion 54, for teaching these missing features.

As shown in FIG. 3B, the tile 50 has a large hollow cavity 70 at its upper end. The tile does not have, therefore, "a reinforced area proximate to a top end of said rear face shaped such that at least a portion of said area sits substantially flush with a portion of said vertical wall" where "the reinforced area includes a continuous planar first face that contacts said portion of said vertical wall and extends between said side faces." Because of the large hollow cavity 70, the tile 50 cannot make continuous flush contact with the structure's surface across the length of the tile 50 as recited in the claim. Therefore, in contrast to the present invention, and more like the prior art described in the APA, when a nail is driven through the tile 50 in the cavity area 70, that nail must pass through an air gap before entering the structure. This gap between the rear surface and the structure can lead to burst fractures in the rear surface of the tile, like a bullet exiting an object in free space. This, in turn, can lead to additional stress cracks and fractures, expose the tile to water damage, weaken the holding strength of the fasteners and generally reduce the product life of the product.

In the assembly of claim 9, the reinforced area forms a continuous planar first face extending between the side faces that is shaped to sit substantially flush with the portion of the vertical wall to which the panel is attached. Because the planar face is continuous, there is substantially continuous contact along the longitudinal length of the panel (i.e., from side to side). Therefore, fasteners (such as nails) can be driven through *any portion* of the protruding area along the length of the panel directly into the wall without encountering a problematic air

gap as described above. This benefit cannot be achieved by the combination of APA with Jackel.

For at least these reasons, it is submitted that claim 9 is not obvious from and is allowable over the cited combination of references.

Claims 10-13 and 15-16 depend from claim 9 and are, therefore, also allowable for at least the reasons set forth above in connection with claim 9.

3. Claims 17, 19 and 22-24

Independent claim 17 is directed to a method of installing a siding panel assembly on a structure. Claim 17 recites that the rear face of at least the first siding panel has a first area proximate to a top end of said rear face shaped such that at least a portion of said area sits substantially flush with a portion of said vertical wall when said first siding panel is secured to said wall and angled to overlap at least a portion of said second siding panel, that the "first area" of the first siding panel "includes a continuous planar first face that contacts said portion of said vertical wall and extends between said side faces" and further that the series of nails is driven "through said continuous planar first face" and into the vertical wall.

As discussed above in connection with claim 9, the combination of the APA with Jackel does not teach or suggest a panel having a first area including "a continuous planar first face that contacts said portion of said vertical wall and extends between said side faces." As also discussed above, if nails were to be driven through the panel formed by such a combination, the nails would encounter cavity 70 of Jackel and not a continuous planar first face, leading to the various problems discussed above. For at least these reasons, it is submitted that the installation method of claim 17 is not obvious from and is allowable over the cited combination of references.

Claims 19 and 22-24 depend from claim 17 and are, therefore, allowable for at least the reasons set forth above in connection with claim 17.

4. Claims 25-26, 30

Claim 25 is directed to a rectangular shaped clapboard siding panel having a protruding area proximate to a top end of the rear face shaped such that at least a portion of the area sits substantially flush with a portion of a vertical wall when the siding panel is secured to the vertical wall and angled to overlap a least a portion of a second siding panel. Claim 25 also recites that this first area includes "an embedded or laminated reinforcement **layer**." The Office argues that Jackel discloses panels "that are reinforced with embedded polyester and/or cellulose fiber." The Applicant respectfully submits that the Office has ignored the "layer" limitation of the claimed "embedded or laminated reinforcement layer" feature. Jackel's evenly dispersed fibers in the cement material that forms Jackel's panel do not constitute a physical "layer" that is embedded or laminated to a first area of Jackel's panel. The Office cannot identify a location in Jackel's panel as to where this "layer" allegedly exists.

For at least these reasons, it is submitted that the Office has not set forth a *prima facie* case of obviousness with respect to claim 25 and dependent claims 26 and 30 and that these claims are in allowable form.

5. Claims 27-29

Claim 27 is directed to a clapboard siding panel having front and rear faces. Amended claim 27 recites that the rear face has a first portion forming an oblique angle with respect to a vertical wall to which the siding panel is affixed and a second portion which is disposed in substantially "continuous" flush contact with the vertical wall "along said longitudinal length" when the siding panel is affixed to the vertical wall.

As discussed above, the combination of APA and Jackel cannot provide a portion that is in substantially continuous flush contact with the wall along the longitudinal length of the siding panel. The APA has no such feature and Jackel, as explained above, includes a cavity that prevents such contact and teaches away from the claimed invention.

For at least these reasons, it is submitted that claim 27 is not obvious from and is allowable over the cited combination of references.

Claims 28 and 29 depend from claim 27 and are, therefore, allowable for at least the reasons set forth above in connection with claim 27.

Still further, claim 28 recites that the first portion forms a "continuously" planar surface extending "along said longitudinal length" from the bottom end to a location proximate to the second portion. As discussed above, the APA does not include multiple portions or faces at the rear surface of its panel and Jackel does not disclose a continuously planar portion that extends along the longitudinal length of the panel and from a bottom end to proximate to the planar second portion, and the APA discloses a panel having a single rear face. For at least these additional reasons, it is submitted that claim 28 is independently allowable over the cited combination of references.

Reconsideration and withdrawal of the rejection of the presently pending claims are respectfully requested.

IV. Conclusion

In view of the foregoing remarks and amendments, Applicant submits that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account **04-1679**.

Respectfully submitted,

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